S.B.Civil Sales Tax Revision No.919/2000
Assistant Commissioner,Commercial Taxes,Ajmer
vs.
M/s Sushil Tyres

Date of Order: 12.9.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Sangeet Lodha for the petitioner.
Mr. Dinesh Mehta for the respondent.

Heard learned counsel for the parties.

This revision petition is against the order passed by the Deputy Commissioner(Appeals), Commercial Taxes, Jodhpur dated 13.2.1995 (Annx.3) and order of the Tax Board, Ajmer dated 8.12.1998(Annx.4).

Brief facts of the case are that the business premises of the respondent-assessee was surveyed and goods worth Rs.1,04,171.39 were found in excess than the accounted goods. The tyres and tubes of the different brands were found but there were no bills of the purchase, therefore, a show cause notice was issued regarding imposition of penalty under Section 22(6)(b) of the RST Act, 1954. According to the revenue, the assessee could not furnish satisfactory explanation and, therefore, the penalty of Rs,31,251/- @ 30% on the value of said excess goods under Section 22(6)(b) of the RST Act, 1954 was imposed vide order dated 16.7.1994.

Aggrieved against the order dated 16.7.1994, the assessee preferred appeal before the Deputy Commissioner(Appeals), Jodhpur

which was allowed by the Deputy Commissioner(Appeals) vide order dated 13.2.1995. The revenue aggrieved against the order of the Deputy Commissioner(Appeals), Jodhpur dated 12.2.1995, preferred second appeal before the Rajasthan Tax Board, Ajmer which was dismissed by the Tax Board vide order dated 8.12.1998. Hence this revision petition.

It appears from the facts of the case that the Deputy Commissioner(Appeals) observed that in fact there were three related firms and the explanation of the assessee was that there was one godown for the goods of three firms and the office was also at one place. Inadvertently, certain bills were issued by one firm for the goods of another firm and he placed on record the evidence in support of the defence that the goods of one firm was found short. The explanation was accepted by the appellate authority and the appellate authority found that the evidence produced by the assessee in support of his explanation clearly proved that in fact there is difference of only Rs.10,281/-. The appellate authority also observed that in the year 1991-92 the assessee's business was of Rs.1.35 crores, in the year 1992-93 of Rs.1.35 crores and in the year 1993-94 of Rs.1.46 crores. The appellate authority also observed that normally assessee's stock remained Rs.15 lacs at any point of time, therefore, such a small difference of Rs.10,281/- can be ignored. The finding of fact recorded by the first appellate court and upheld by the Tax Board is based on the

appreciation of evidence and, therefore, no question of law arises in the present revision petition.

The revision petition is, therefore, dismissed.

(PRAKASH TATIA),J.

mlt.